

## IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	No. 61341-3-I
Respondent,	)	
	)	
v.	)	DIVISION ONE
	)	
REGINALD MERCHANT,	)	UNPUBLISHED OPINION
	)	
Appellant.	)	FILED: June 15, 2009

PER CURIAM. Reginald Merchant appeals from the judgment and sentence entered on his conviction for attempted robbery in the first degree. Merchant's court-appointed attorney has filed a motion to withdraw on the ground that there is no basis for a good faith argument on review. Pursuant to State v. Theobald<sup>1</sup> and Anders v. California,<sup>2</sup> the motion to withdraw must:

[1] be accompanied by a brief referring to anything in the record that might arguably support the appeal. [2] A copy of counsel's brief should be furnished the indigent and [3] time allowed him to raise any points that he chooses; [4] the court--not counsel--then proceeds, after a full examination of all the proceedings, to decide whether the case is wholly frivolous.<sup>[3]</sup>

This procedure has been followed. Merchant's counsel on appeal filed a brief with the motion to withdraw. Merchant was served with a copy of the brief and informed of his right to file a statement of additional grounds for review. Merchant has since filed a pro se statement of additional grounds for review.

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<sup>1</sup> 78 Wn.2d 184, 470 P.2d 188 (1970).

<sup>2</sup> 386 U.S. 738, 18 L. Ed. 2d 493, 87 S. Ct. 1396 (1967).

<sup>3</sup> Theobald, 78 Wn.2d at 185, quoting Anders, 386 U.S. at 744.

The material facts are accurately set forth in counsel's brief in support of the motion to withdraw. The court has reviewed the briefs filed in this court and has independently reviewed the entire record. The court specifically considered the following potential issues raised by counsel:

1. Did the trial court err by denying Merchant's pro se motion for a new trial at his resentencing following his first appeal based on his claim that his right to testify was violated at his trial?
2. Whether the defendant was deprived of a record of sufficient completeness to consider his claims on appeal?
3. Whether Merchant was denied effective assistance of counsel on his first appeal?
4. Whether Merchant's claim regarding his right to testify was proper, timely and not barred by the doctrine of the law of the case even though he previously raised the claim in his first appeal?

The court also raised and considered the following potential issue:

Did sufficient evidence support the convictions?

The court also considered the following additional issues raised by Merchant in his "Statement of Additional Grounds for Review":

1. Whether Merchant's right to testify was violated during his trial?
2. Whether Merchant was denied effective assistance of counsel during his trial?
3. Whether Merchant was denied effective assistance of counsel on his first appeal?
4. Whether Merchant was deprived of a record of sufficient completeness to consider his claims on appeal?

The issues raised by Merchant, his appellate counsel, and the court are

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wholly frivolous. Counsel's motion to withdraw is granted and the appeal is dismissed.

For the court:

Ajia, J.

Cox, J.

Leach, J.